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 Antoine LeCoutteux*

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

TELESOCIAL INC.,

Plaintiff,

v.

ORANGE S.A., a French Corporation; ANNE
 BENRIKHI, an individual; DIMITRI DELMAS,
 an individual; OLIVIER GODINIAUX, an
 individual; GUILLAUME GUIMOND, an
 individual; FABRICE PETESCH, an individual;
 JACQUES VIEL, an individual; BARBARA
 BOBILLIER, an individual; THOMAS
 LESENECHAL, an individual; FLORIAN DE SA,
 an individual; ANTOINE LECOUTTEAUX, an
 individual; and SYLVIAN JAUDRY, an
 individual,

Defendants.

CASE NO. 3:14-CV-03985-JD

**STIPULATION AND
 ORDER REGARDING PRODUCTION OF
 ELECTRONICALLY STORED
 INFORMATION**

Filing Date: September 2, 2014
 Trial Date: December 7, 2015

1 1. **PURPOSE**

2 This Order will govern discovery of electronically stored information (“ESI”) in this
3 case as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the
4 Discovery of Electronically Stored Information, and any other applicable orders and rules.

5 2. **COOPERATION**

6 The parties are aware of the importance the Court places on cooperation and commit to
7 cooperate in good faith throughout the matter consistent with this Court’s Guidelines for the
8 Discovery of ESI.

9 3. **LIAISON**

10 The parties have identified liaisons to each other who are and will be knowledgeable
11 about and responsible for discussing their respective ESI. Each e-discovery liaison will be, or
12 have access to those who are, knowledgeable about the technical aspects of e-discovery,
13 including the location, nature, accessibility, format, collection, search methodologies, and
14 production of ESI in this matter. The parties will rely on the liaisons, as needed, to confer
15 about ESI and to help resolve disputes without court intervention.

16 4. **PRESERVATION**

17 The parties have discussed their preservation obligations and needs and agree that
18 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the
19 costs and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

20 a) Only ESI created or received between December 1, 2011 and September 2,
21 2014 need be preserved.

22 b) The parties have exchanged or will exchange a list of the types of ESI they
23 believe should be preserved and the custodians, or general job titles or descriptions of
24 custodians, for whom they believe ESI should be preserved, e.g., “HR head,” “scientist,” and
25 “marketing manager.” The parties shall add or remove custodians in good faith, as reasonably
26 necessary.

c) The parties will agree on the number of custodians per party for whom ESI will be preserved. However, Orange has informed Telesocial that Sylvain Jaudry does not exist. Orange has also taken steps to locate and preserve evidence relating to former interns Barbara Bobillier, Thomas Lesenechal and Florian De Sa.

d) Among the sources of data the parties agree are not reasonably accessible, the parties agree not to preserve the following: custodians' personal photographs that are unrelated to Telesocial or meetings relating to Telesocial.

5. **SEARCH**

The parties agree that as soon as practicable after receipt of a request for production or inspection under Fed. R. Civ. P. 34, they will meet and confer in good faith about methods to search ESI in order to identify ESI that is subject to production in discovery and filter out ESI that is not subject to discovery including, without limitation, by agreeing on search terms to be applied to the collection and review of ESI, custodians and other ESI sources subject to production, and/or relevant time periods subject to production. The parties further agree to meet and confer in good faith regarding any modification of the list of search terms, custodians, sources, and/or relevant time period.

6. **PRODUCTION FORMATS**

The parties agree to produce all ESI in tiff form and subject to the requirements set forth below. If particular documents warrant a different format, the parties will cooperate to arrange for the mutually acceptable production of such documents. For example, any excel spreadsheets will be produced in native form. The parties agree that regardless of the particular format used, all available metadata (including but not limited to the metadata fields set forth in Attachment A hereto) for each document shall be produced. The parties agree not to degrade the searchability of documents, or to convert documents from the form in which they are ordinarily maintained or currently exist into a form that is less usable or more difficult or burdensome to review, as part of the document production process.

- 1 A. **Redaction.** For any responsive ESI that is produced in redacted form, the
2 Parties shall use suitable techniques and methods of redaction to preserve the
3 integrity of the ESI while protecting information subject to redaction.
- 4 B. **Production Media.** The Producing Party shall produce documents on readily
5 accessible computer or electronic media as the Parties may hereafter agree
6 upon, including CD-ROM, DVD, or via a secure FTP server (“Production
7 Media”). Each piece of Production Media shall be assigned a reference number
8 or other unique identifying label corresponding to the date of the production of
9 documents on the Production Media as well as the sequence of the material in
10 that production. Production Media shall include text referencing the case name
11 and number. Further, any replacement Production Media shall cross-reference
12 the original Production Media and clearly identify that it is a replacement and
13 cross-reference the document number range that is being replaced.
- 14 C. **Preservation of Original Documents.** The Producing Party shall retain native
15 electronic source documents for all ESI produced in this Litigation until the
16 conclusion of this Litigation, including resolution of any appeals. The
17 Producing Party shall take all reasonable measures to maintain the original
18 native electronic source documents in a manner so as to preserve the metadata
19 associated with these electronic materials as it existed at and before the time of
20 production in the event review of such metadata becomes necessary. In
21 addition, the Producing Party or its vendor shall maintain a cross-reference file
22 from the original documents to the production set of documents.
- 23 D. **Appearance and Content.** No document may be intentionally manipulated to
24 change how the source document would have appeared if printed out to a printer
25 attached to a computer viewing the file. Therefore, subject to any appropriate
26 redaction, each document’s electronic image shall convey the same information
27 and image as the original document. Tracked changes and embedded content
28 should be shown when present, hidden content should be revealed prior to
production, and all date, time, and path fields should be populated with field
codes instead of current data. Responsive ESI that presents imaging or
formatting problems shall be promptly identified; the Parties shall meet and
confer in an attempt to resolve the problems.

7. PHASING

19 When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34, the parties
20 agree to prioritize the production of ESI from the following sources and custodians: Benoit
21 Amet, Xavier Perret, Catherine Le Drogo Ferrari, Olivier Godinaux, Bill Waytena, and Eric
22 Stone. The parties further agree to meet and confer in good faith regarding the prioritization
23 and/or phasing of production of ESI in response to Fed. R. Civ. P. 34 requests according to
24 date ranges. The parties will also meet and confer regarding sharing expenses concerning
25 discovery.

1 8. **DOCUMENTS PROTECTED FROM DISCOVERY**

2 a) Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-
3 product-protected document, whether inadvertent or otherwise, is not a waiver of privilege or
4 protection from discovery in this case or in any other federal, state or foreign proceeding. For
5 example, the mere production of privileged or work-product-protected documents in this case
6 as part of a mass production is not itself a waiver in this case or in any other federal, state or
7 foreign proceeding.

8 b) When a Producing Party gives notice to Receiving Parties that certain
9 inadvertently produced material is subject to a claim of privilege or other protection, the
10 obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure
11 26(b)(5)(B).

12 c) Privileged communications involving counsel of record in this action that post-
13 date the filing of the complaint need not be placed on a privilege log. The parties will meet
14 and confer in good faith with regard to the necessity of logging privileged documents that
15 relate to other foreign or domestic litigation proceedings. Communications should be
16 identified on a privilege log in conformance with Paragraph 7 of Judge Donato's Standing
17 Order Regarding Civil Discovery dated April 25, 2014. This order shall not constitute a waiver
18 of any party's right to request a more detailed privilege log or to raise other issues with respect
19 to a privilege log.

20 9. **MODIFICATION**

21 This Stipulated Order may be modified by a Stipulated Order of the parties or by the
22 Court for good cause shown.

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10. **SUBJECT TO PROTECTIVE ORDER**

Documents produced under this stipulation may also be subject to the Protective Order regarding confidential information.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Date: 2/27/2015

Submitted By,

COLT / SINGER / BEA LLP

By: 

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Renee B. Bea

Douglas S. Tilley

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By: 

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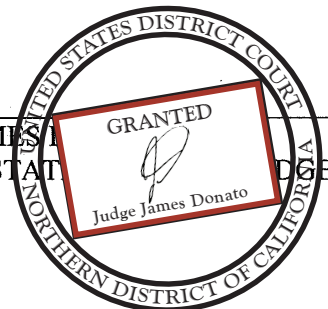
and Antoine LeCoutteux

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 3/2/15

HON. JAMES I.

UNITED STATES



~~STIPULATED~~ ESI ORDER

CASE NO. 3:14-CV-03985-JD

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L.R. 5-1(i) ATTESTATION

I, Renee B. Bea, am the ECF user whose ID and password are being used to file the Parties' STIPULATED PROTECTIVE ORDER. In compliance with Local Rule 5-1(i), I hereby attest that Lee Brenner, counsel for Defendants, has concurred in this filing.

/s/ Renee B. Bea